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PORTLAND
City Club
BULLETIN

Mayfair Room • Benson Hotel
Friday . . . 12:10 P.M.

PORTLAND, OREGON - Nov. 1, 1968 - Vol. 49, No. 22

Printed in the Oct. 25th Bulletin for presentation, discussion and action Nov. 1:

**REPORT ON
CONSTITUTIONAL AMENDMENT
CHANGING PROPERTY TAX LIMITATION**

**(State Measure No. 7)
(Initiative Petition)**

The Committee: Harry J. Beeman, Carl H. Bryan, Jace C. Budlong,
Charles M. Chase, Alexander N. Davidson, Justin N. Reinhardt,
Clifford E. Zollinger and Kenneth S. Klarquist, *Chairman*.

Printed herein for presentation, discussion and action Nov. 1:

**REPORTS ON
BOND ISSUE TO ACQUIRE OCEAN BEACHES**

(State Measure No. 6)

- The Committee:* John Eliot Allen, Albert H. Bliton, Blake Byrne, Richard E. Ritz,
David S. Shannon, and Maurice O. Georges, *Chairman, for the Majority*;
G. H. Mattersdorff, *for the Minority*.

**GOVERNMENT CENTER
AUTHORIZING SALE OF COUNTY BONDS TO FINANCE COST OF
PURCHASE OF SITE FOR EXPANSION OF COUNTY COURT HOUSE
(Multnomah County Measure No. 8)**

The Committee: Ralph F. Appleman, Thomas T. Cook, Jr., Allen D. Cover,
Dr. Scott Durdan, Stanley R. Loeb, Robert L. Weiss, M. Y. Zucker and
Lloyd Williams, *Chairman, for the Majority*; Del Leeson, *for the Minority*.

**TAX BASE PROPOSAL FOR
METROPOLITAN AREA EDUCATION DISTRICT
(Area District Measure No. 10)**

The Committee: Donald D. Casey, Donald B. Kane, Neil Meagher,
John F. Mower, Fritz H. Neisser, Robert M. York,
and Robert W. McMenamin, *Chairman*.

**CONSTITUTIONAL AMENDMENT
BROADENING COUNTY DEBT LIMITATION
(State Measure No. 4)**

The Committee: Richard L. Blankenship, Neil Farnham, Lloyd W. Weisensee,
William O. Wright, and John R. Hay, *Chairman*.

ARCHBISHOP DWYER ACCEPTS INVITATION FOR CHRISTMAS PROGRAM

The Most Reverend Robert J. Dwyer, Archbishop of the Archdiocese of Portland since February, 1967, has accepted the Board of Governor's invitation to present the traditional Christmas message this year.

The Christmas luncheon, to which members are encouraged to invite wives and guests, is scheduled for Friday, December 20.

Archbishop Dwyer has chosen the topic "Authority and Conscience" for his address. Traditional holiday music will also be scheduled for the program.

PORTLAND CITY CLUB BULLETIN

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ELECTED TO MEMBERSHIP

Kittredge S. Hawkins, Director of Advertising, The Oregon Bank. Sponsored by Donald W. Green, II.

Adam J. Heineman, Engineer. Assistant General Manager, The Port of Portland. Sponsored by Ogden Beeman.

John F. O'Donnell, Retired (President, Triangle Milling Co.). Sponsored by William A. Comrie.

Elwin Paxson, Funeral Director. Owner, Pegg, Paxson & Springer. Sponsored by George W. Friede.

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Walter Simcich, Research Director, International Woodworkers of America, AFL-CIO. Sponsored by Peter Hurst, M.D.

REINSTATEMENT

Roy Vernstrom, Special Consultant, Management & Economics, Research Incorporated.

PROPOSED FOR MEMBERSHIP AND APPROVED BY THE BOARD OF GOVERNORS

If no objections are received by the Executive Secretary prior to November 15, 1968, the following applicants will be accepted for membership:

Mark A. Bershadsky, Salesman, Van Heusen Co. Proposed by Alan Miller.

Harold Boverman, M.D., Physician. Associate Professor, University of Oregon Medical School. Proposed by Ogden Beeman.

John Richard Campbell, M.D., Pediatric Surgeon. Chief of Pediatric Surgery, University of Oregon Medical School. Proposed by Ogden Beeman.

John Wiley Gould, Lawyer. Associate, McCulloch, Dezendorf & Spears. Proposed by Richard Haeder.

Merwyn R. Greenlick, Director of Health Services and Research Center, Kaiser Foundation Hospital. Proposed by James W. Durham, Jr.

William C. Scott, Jr., Attorney. Associate, Rives & Schwab. Proposed by William C. Scott, M.D.

REPORT
ON
BOND ISSUE TO ACQUIRE OCEAN BEACHES
(State Measure No. 6)

Purpose: Constitutional amendment confirming existing public rights to ocean beaches and accesses. Authorizes state acquisition of privately-owned beaches bordering Pacific Ocean from extreme low tide to natural vegetation line, and accesses. Authorizes at any one time not to exceed \$30,000,000 state general obligation bonds for acquisition. Prohibits construction of highways on beaches and ocean sand spits. Imposes for four years one cent per gallon tax on fuel for private passenger motor vehicles to retire bonds.

To the Board of Governors,
The City Club of Portland:

I. ASSIGNMENT

Your Committee was established to study and report to the City Club membership on State Measure No. 6, a proposed constitutional amendment which was placed on the November 5, 1968 general election state ballot by initiative petition.

The purpose of the measure, as stated above, is to authorize \$30,000,000 in state general obligation bonds to acquire privately-owned beach property on the Pacific Ocean. The money to retire such bonds is to be raised by imposing, for a four-year period, a one-cent-per-gallon tax on fuel used by private passenger cars. The amendment would also prohibit construction of highways on beaches and ocean sand spits.

II. SCOPE OF INVESTIGATION

Your Committee interviewed the following persons:

Laurence Bitte, representing "Citizens to Save Our Beaches"⁽¹⁾ committee;

Kessler Cannon, Administrative Assistant for Natural Resources, Office of the Governor, State of Oregon;

Dan Dority, real estate broker and property owner in Newport, Oregon;

⁽¹⁾"Citizens to Save Our Beaches" is a committee which sponsored an initiative petition for a beach preservation proposal also, but that petition failed to secure enough signatures to qualify for the ballot.

Dr. Jefferson Gonor, oceanographer and member, "Citizens to Save Our Beaches" committee;

Kenneth E. Johnson, Administrative Assistant to State Treasurer Robert Straub, member "Beaches Forever" committee;⁽²⁾

Sidney A. King, Secretary-Treasurer, Oregon State Motor Association, and spokesman for Oregon Highway Users;

William S. McLennan, lawyer and chief draftsman of the "Beaches Forever" measure;

Robert W. Straub, State Treasurer, and sponsor of the "Beaches Forever" measure.

Your Committee received letters concerning the measure from Mrs. R. J. Shiprack and Mr. C. B. Stephenson.

Individual members of the Committee discussed the measure with Glenn Jackson, Chairman, Oregon State Highway Commission; Lloyd Shaw, Assistant Engineer, Oregon State Highway Commission, and John Scrivner, Manager, Fuel Tax Division, Department of Motor Vehicles, State of Oregon. None of these takes any position for or against the measure but all three provided valuable information.

The Committee studied relevant U. S. and Oregon constitutional and statutory provisions and reviewed pertinent court cases. The Committee also reviewed pertinent portions of the following publications:

The Oregon Economy and Outlook, State of Oregon, Department of Commerce, Economic Development Division (5th Edition, March, 1968);

Oregon Outdoor Recreation, Third Edition, Oregon Highway Department (1967);

Pacific Northwest Economic Base Study for Power Markets, Myron Katz, RECREATION, U. S. Department of the Interior, Bonneville Power Administration, Volume II, Part 9 (1967);

The Current Recreational Land Boom in Oregon, Stan Federman, a series of four articles in *The Oregonian*, August 25, 1968 to August 29, 1968.

III. BACKGROUND MATERIAL

Oregon's ocean beaches are one of the state's most important scenic and recreation resources. Oregonians and out-of-state tourists make frequent use of the beach as a free area for walking, driving, swimming, picnicking, sunbathing, riding, camping, clamming and surf-fishing.

As the population increases, becomes wealthier, has more leisure time and becomes more mobile, use of the beaches increases. One consequence has been a sharp rise in the value of coastal real estate.

At a time when increasing use and development of the coast is imminent, it has been discovered that it is not at all clear who owns and controls the beaches. The result has been a continuing heated controversy in which a variety of interest groups has expressed a great divergency of viewpoints. State Measure No. 6 is the latest focus of contention in this controversy.

⁽²⁾"Beaches Forever" is a committee that sponsored the successful initiative petition drive which placed State Measure No. 6 on the ballot.

A. BEACH USE AND DEVELOPMENT

Use of Oregon's beaches for recreation and relaxation dates from the last century. There has been little change in the kinds of beach use, but a substantial increase in beach use is indicated by a variety of factors⁽³⁾ as follows:

More population—A 37 percent increase from the 1960 census figure for Oregon (1,763,681) to the 1975 projection (2,415,531).

More tourists—A 104 percent increase from the 1960 estimate of out-of-state visitors (24,000,000) to the 1975 projection (49,000,000). Tourism is Oregon's third largest and fastest-growing industry.⁽⁴⁾

More available income—An 83 percent increase from average 1960 non-agricultural family income (\$5,892) to the 1975 projection (\$10,765).

More leisure time—A 33 percent increase from the average 1960 paid vacation and holiday total (24 days) to the 1975 projection (32 days).

More mobility—A 66 percent increase from the 2.25 billion recreation miles traveled in 1960 to the 3.73 billion 1975 projection.

A consequence of the foregoing is an increase in development at the coast, as shown by the following:

INCREASE IN SEASIDE BUILDING PERMITS

(*Seaside Signal*, October 10, 1963)

1966	\$ 387,416
1967	773,255
1968 (through 10/7/68)	\$1,017,458

INCREASE IN BEACH FRONT-FOOT LAND VALUES

(Federman, *supra*, August 24, 1968 article)

County	Value 1963	Value 1968
Grays Harbor, Washington	\$50-\$100	\$120-\$220
Pacific Beach, Washington	\$40	\$130
Clatsop	\$100	\$225
Tillamook	\$40	\$200
Lincoln	\$40-\$100	\$200-\$235
Lane	\$20	\$100
Coos	\$20	\$100
Curry	\$10-\$30	\$45-\$145

Also, according to Mr. Federman, Salishan lots are now selling at double the price when the lots first came on the market.

B. BEACH OWNERSHIP AND CONTROL

The State Highway Commission reports that the coastal frontage ownership pattern is as follows:

Oregon Ocean Front Ownerships, Excluding Estuaries

	Total Miles	Miles of Usable Beach	Miles of Unusable Coast (Mostly Headlands)
Federal agencies	63.4	52.0	11.4
State agencies	108.9	61.0	47.9
Local governments	18.3	18.2	0.1
Private ownership	165.0	119.0	46.0
Total	355.6	250.2	105.4

(3)*Oregon Outdoor Recreation*, *supra*, sections 200.2 to 400.1.

(4)*Oregon Economy and Outlook*, *supra*, pp. 14 and 20.

Other studies show similar figures. The controversy is concentrated on the 119 miles of private ownership of usable beach frontage, and, more narrowly, on the public and private rights in the dry sands portion of this ownership.

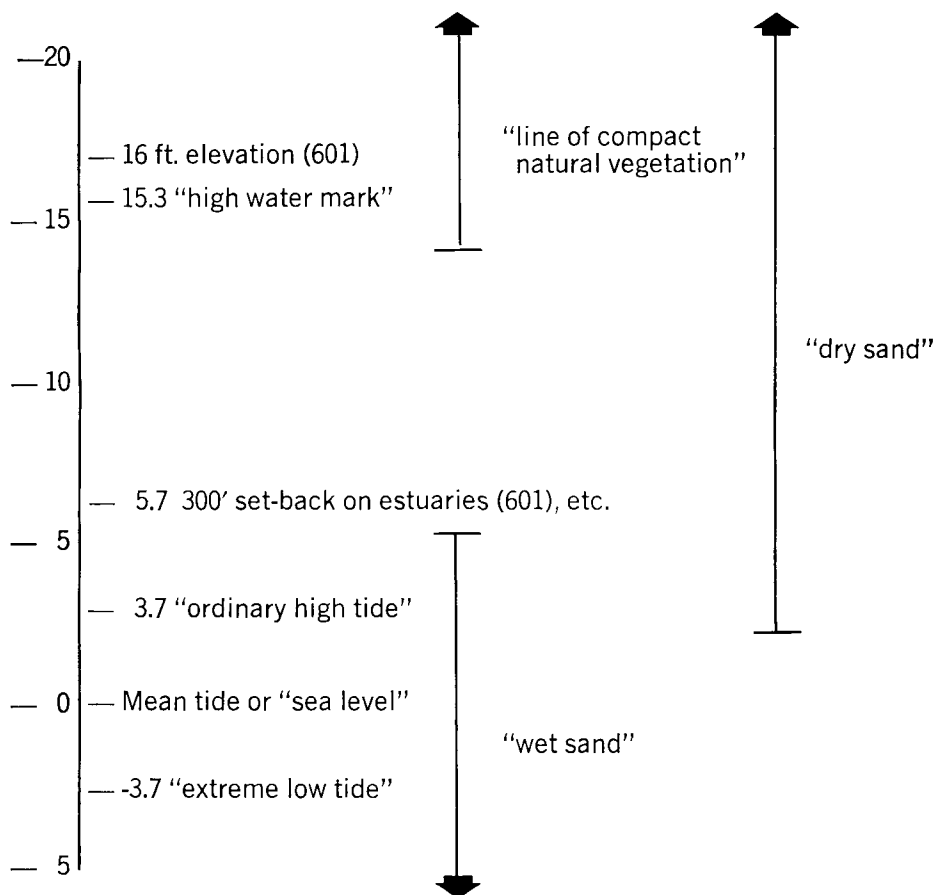
The following are the principal legal landmarks⁽⁵⁾ relevant to the ownership and control of the ocean beaches:

1. In 1894 the United States Supreme Court held that upon admission to the Union in 1859, the state of Oregon acquired ownership to the shore of the Pacific Ocean between ordinary high tide and extreme low tide. (Shively v. Bowlby, 152 US 1)

2. In 1899, the Legislative Assembly declared "that the shore of the Pacific Ocean between ordinary high and extreme low tides from the Columbia River on the north to the south boundary of Clatsop County on the south is * * * a public highway and shall forever remain open to the public." (Oregon Laws, 1899, page 1)

3. In 1913, the Legislative Assembly made the same declaration with respect to the entire shore from the Columbia River to the California boundary, "excepting such portion or portions of such shore which may have heretofore been disposed of by the state." (Oregon Laws, 1913, Chapter 47)

⁽⁵⁾Various interpretations are made of the terms "extreme low tide," "high water mark," "ordinary high tide," "the 16-foot elevation," "wet sand," "dry sand" and the "line of compact natural vegetation." The following diagram indicating the range of interpretation, is given so as to provide a graphic picture of the elevations considered:



Prior to 1913, about 22 miles of the area between the extreme low and ordinary high tide (mostly in Tillamook and Lincoln counties) had been sold by the state to private parties.

4. In 1965, the Legislature declared that the area between the ordinary high and extreme low tide was no longer a "public highway" but was instead a "state recreation area." (Oregon Laws, 1965, Chapter 368)

5. None of the foregoing relate to areas east of ordinary high tide. In 1967, following a public awakening that public rights in dry sand areas were doubtful, the Legislative Assembly enacted a comprehensive beach bill which in summary provides as follows:

a. It is the policy of the State of Oregon to forever preserve and maintain the sovereignty of the state therefore existing in the seashore and ocean beaches so that the public may have the free and uninterrupted use thereof. It is in the public interest to do whatever is necessary to preserve and protect scenic and recreational use of Oregon seashore and ocean beaches.

b. Title to whatever easements the public had acquired in the ocean beaches is vested exclusively in the state.

c. The State Highway Commission was directed to survey the entire coast and locate a line ("601 Line")⁽⁶⁾ which is the westernmost of the following two points:

(i) a 16-foot elevation above sea level.

(ii) 300 feet inland from the 5.7 foot elevation with interpolation in certain instances, such as at rivers and estuaries.

d. Construction on the beaches below the 601 Line is prohibited, unless the State Highway Engineer determines that the construction is consistent with the scenic and recreational use of the beach by the public.

e. In the ordinary case, property owners are relieved of liability for damage to persons or property if the injury occurs on land on which the public has acquired an easement.

f. In determining the true cash value of beach property for tax purposes, the restricted use attributable to public easements must be taken into account.

6. On August 26, 1968, the Tillamook County Circuit Court (Bohannon, J.), in *State of Oregon v. Fultz* (No. 14-642), held as follows:

a. The beachfront property owner holds title to property to the ordinary high tide.

b. By reason of extensive public use of the beach, the public has acquired an easement to the use of the portion of the beach lying east of the ordinary high tide and west of the 601 Line.

Both parties intend to appeal the *Fultz* case to the Oregon Supreme Court.

The Committee's analysis concerning the ownership and control of the beach areas is as follows:

1. *Area between extreme low and ordinary high tide ("wet sand")*. Except for the 22 miles sold to private parties prior to 1913, this area belongs to the state.

2. *Ordinary high tide line eastward to compact line of vegetation ("dry sands")*.

a. **Ownership.** This area is probably owned by the beachfront property owner.⁽⁷⁾ It was stated in the *Fultz* case that "... those members of the public who used the beach, if they thought about it at all, believed that the beach was public. . . ." Regardless of this belief the State probably does not own all the beach. On the other hand, one group, "Citizens to Save Our Beaches," maintains that the State of Oregon owns up to the extreme high tide.

b. **Public Rights.** In areas which have been accessible to the public for a substantial period of time, the *Fultz* case holds that the public has acquired an easement to use the beach. The appeal of the *Fultz* case will give the Oregon

⁽⁶⁾The "601 Line" is so-called because of the chapter number creating it—Oregon Laws 1967, Chapter 601; ORS 290.610 to 390.690, and 308.235.

⁽⁷⁾*Hughes v. Washington* (Dec. 1967) 88 S.Ct. 438, 19 L.Ed.2d 530.

Supreme Court an opportunity to outline the nature of any easements acquired by the public. There may be areas (mainly south of Bandon) where it may be more difficult to establish that the public had used the beach with such frequency as to acquire any easement.

c. **Zoning.** According to the 1967 Statute, improvements may not be constructed westward of the 601 Line without permission of the State Highway Engineer. In the *Fultz* case, the court upheld the zoning authority of the State Highway Engineer. An appeal of the *Fultz* case will give the Oregon Supreme Court an opportunity to rule on the zoning issue.

d. **Area between 601 Line and compact natural vegetation line.** The zoning authority of the State Highway Engineer extends eastward only to the 601 Line. Only the Legislative Assembly or local governments can extend zoning eastward of the 601 Line.

In the *Fultz* case, the court declared that public easements did not extend eastward of the 601 Line. The appeal of the *Fultz* case will give the Oregon Supreme Court an opportunity to determine whether public easements extend eastward of the 601 Line.

There is a substantial but as yet uncalculated area between the 601 Line and the line of compact natural vegetation.

3. **Shifting Coastal Line.** Authorities have told your Committee that, in general, the northern beaches are gradually rising and the southern beaches are gradually lowering. Consequently, in the north, the beaches are moving westward and, in the south, the beaches are moving eastward. It is probable (though by no means certain) that beach rights move with the beaches. The ultimate gainers in this shifting process are the upland owners of the northern beaches. The ultimate losers are the upland owners of the southern beaches. It is probable that public and private rights in the wet sand and dry sand remain the same, even though the area for exercising these rights shift with the shifting coast line.

What is most certain about ownership and control of the beaches is that it will be many years before all the relevant uncertainties are finally resolved. The principal question facing the voters is whether it is preferable to wait for a resolution of some or of all the uncertainties and then devise an appropriate program, or to adopt a program currently which is sufficiently flexible to deal with most of the uncertainties but less than perfect in several important respects.

IV. STATE MEASURE NO. 6 IN SUMMARY

The salient features of State Measure No. 6 are:

1. It would be the declared policy of the state to acquire *all* ocean beach lands up to the line of compact natural vegetation.

2. The State Highway Commission would be responsible for carrying out the following program:

a. The Commission *must* inventory and clarify all rights of the public in lands west of the line of compact natural vegetation.

b. The Commission *may* acquire by gift, purchase, condemnation or otherwise:

(i) privately owned lands west of the line of compact natural vegetation and interests therein; and

(ii) easements and other means of access over and across privately owned lands to permit public access to all lands west of the line of compact natural vegetation.

3. The following funds would be provided:

a. Existing gas tax revenues would be used to the extent necessary to enforce laws restricting the operation of motor vehicles and littering on the beaches.

b. The one-cent-a-gallon tax on gasoline used by passenger automobiles would be imposed for a four-year period commencing January 1, 1969, to

provide funds for the acquisition of such lands and interests in lands the Commission purchases or condemns. The lands and interests in lands would actually be paid for from the proceeds of bonds sold by the state and the one-cent-a-gallon tax would pay interest upon and redeem the principal amount of the bonds.

4. Provision is made that title to property and the value of property for condemnation purposes can be determined in the same proceeding.

5. Construction of highways on beaches and publicly owned sandspits would be prohibited.

V. ARGUMENTS FOR THE MEASURE

Arguments advanced to your Committee in support of the measure have included:

1. The measure provides (a) a definite and immediate program to secure for the public the right to use the beaches freely; and (b) funds not now available to accomplish this program at a time of sharply rising land acquisition costs.

2. A constitutional amendment is necessary to assure an immediate source of funds.

3. Oregon must avoid the division of the beach by barriers such as has occurred in other states.

4. A gasoline tax is the most appropriate way for financing the program.

5. The cost of the program will be borne equitably by the primary users of the beaches who are the owners of private automobiles.

6. The administrative machinery for making gasoline tax refunds to those eligible is already established under the existing gasoline tax law.

7. The average estimated cost per automobile, under this proposal, is low—about \$6 per year for four years.

8. \$30,000,000 is a reasonable estimate of the amount required for beach and access acquisition.

9. The measure permits but does not compel the Highway Commission to acquire beach and access rights. The Highway Commission can be entrusted to carry out this program.

10. The vegetation line definition of beach areas more accurately describes the beaches than the 16-foot line definition in Chapter 601 of the 1967 Sessions laws.

11. Section 5, subsection 2 of the measure simplifies the court procedures for quieting title in the state and, in the alternative, condemning needed property.

VI. ARGUMENTS AGAINST THE MEASURE

Arguments advanced to your Committee in opposition to the measure have included:

1. The measure is premature and may be unnecessary because the existing rights of the public in beach lands are not yet clearly defined under the law; the identity, quantity and costs of lands which would have to be paid for by the State are therefore unknown.

2. There is sufficient public ownership of beaches as matters are.

3. The Highway Commission has too much power, and should not be given more.

4. The provisions concerning beaches should not be in the Constitution.

5. The prohibition against construction of highways on our beaches is not in the public interest. The Yaquina Bay Bridge and the Alsea Bridge would not have been built had Measure 6 then been the law.

6. \$30,000,000 is far more than would be required to purchase all rights and properties necessary for full public use of the beaches. The proponents have overestimated the probable cost of these properties.

7. \$41,000,000 will be raised by the tax, whereas only \$30,000,000 can be used to buy beaches and beach rights. The overage must be held until further disposition of funds is made by constitutional amendment.

8. The measure permits but does not *require* the State Highway Commission to assert ownership by the public in all lands up to the extreme high tide.

9. Ocean beach lands which are declared to be presently owned by the state are defined to extend so far inland that the courts may reject the state's claims and hold that the state's ownership extends inland a lesser distance than the state could otherwise legally claim under a properly drafted measure applying Oregon judicial decisions.

10. The definition of a beach line as a line of natural compact vegetation is not sufficiently explicit and is not suited to the characteristics of Oregon beaches.

11. Section 10 of the measure circumvents Article XI, Section 7 of the Oregon Constitution which limits the State of Oregon debt capacity to \$50,000. (Section 11 would allow a continuing \$30,000,000 funding program which all parties in favor of the measure admitted was an oversight and done without intent.)

12. Section 8 of the measure will encourage local and state enforcement agencies to seek budgetary supplements not necessarily required for enforcement programs, because it directs money to be provided for regulation of motor vehicles and of littering on the beaches.

13. \$30,000,000 could better be spent on other matters such as law enforcement.

14. Increasing the gas tax one cent a gallon begins an unfortunate precedent that will probably be continued.

15. Commercial vehicles should pay a share of whatever is necessary to pay for beaches and beach rights. The refund provisions for commercial vehicles are unduly cumbersome. Administration costs estimated at \$50,000 annually are not provided for and are prohibitive.

16. Under Section 12 of the measure, the state could use gasoline tax proceeds for purposes other than acquisition of beach lands and beach accesses.

17. Oregon Laws, 1967, Chapter 601, is adequate to deal with existing beach problems.

VII. DISCUSSION

Measure No. 6 is highly controversial. The Committee has therefore attempted to enumerate, as fully as possible, reasons for and against the measure which were advanced by proponents and opponents.

The Committee believes that the controlling considerations are found in answers to two broad policy questions:

(1) Should all of Oregon's beach lands (or easements therein) be Federal-, State-, or local government-owned for the benefit of the public?

(2) If the answer to question (1) is affirmative, should the state act immediately to acquire these areas or should it wait until numerous uncertainties are resolved?

If both these questions be answered in the affirmative, arguments against the measure—other than those addressed to these questions—appear to your Committee to be of secondary importance. Conversely, if either or both of these questions be answered in the negative, none of the other reasons advanced in favor of the measure appear to your Committee to be of significance.

At the outset it is clear to your Committee that the purpose of the measure is to provide the state with the legal machinery and financial means to acquire all privately owned beach lands (or easements therein) as defined in the measure, and access routes to both existing beach lands and those which may be acquired. Sponsors of the measure arrived at the \$30,000,000 bond requirement on the basis of data furnished by the State Highway Commission. Sponsors of the measure estimated that approximately \$20,000,000 would be required for acquisition of beach lands and approximately \$10,000,000 for acquisition of beach access routes.

Funds to pay for bonds in the authorized amount are assured by imposition of the gasoline tax. Estimates by proponents and opponents of the gasoline tax revenues which will be raised, vary between \$38,000,000 and \$41,500,000.

Your Committee believes that the critical, basic policy questions should be answered affirmatively. The basic reasons for this conclusion are that the public use of the beach is wholesome, is substantial, and is increasing. Further, the majority of your Committee believes that to await the resolution of all uncertainties regarding beach ownership and control before commencing an acquisition program will result in a waste of time and money.

Your Committee does not necessarily consider it wise for the state to acquire ownership of *all* the beaches, as required by the declaration of policy contained in the measure. However, your Committee understands the proponents intend the Highway Commission to have discretionary authority to acquire whatever interests (ownership or easements) the Commission considers appropriate.⁽⁸⁾ Further, your Committee understands the Commission would have discretionary authority to acquire ownership or easements to the line of compact natural vegetation as of the date of acquisition or to the same line as it may exist at any time in the future.

In your Committee's judgment the two most meritorious arguments advanced against the measure are that there is already enough public ownership of Oregon beaches and that existing law, including Chapter 601 enacted by the 1967 Legislative Assembly and the *Fultz* case affirmed, will provide sufficient protection for the public.

As shown on the table, *supra*, p. 219 approximately 53 percent of Oregon's usable dry sand beach miles are already in public ownership. A substantial portion of the area which is privately owned lies in Clatsop, Tillamook and Lincoln counties—three of the most popular and widely used counties for coastal recreation. Your Committee believes, as most of the opponents as well as the proponents agree, that the percentage of area publicly owned versus the percentage of area privately owned should not be the basis for resolving the principal question. Rather, it is generally agreed that the answer should depend upon whether the projected increased beach usage requires the proposed acquisitions. Because both the usage trend in recent years and the projected future usage trends are sharply upward, the Committee is satisfied that the need for substantial additional public beach areas exists.

Chapter 601, Oregon Laws (1967), may have greatly helped to preserve existing public rights in and to beach lands. Judge Bohannon's recent decision in the *Fultz* case, if sustained on appeal, will assure the public of the rights it has always exercised in beach areas in which prior public usage was substantial. The zoning provisions of Chapter 601 may have done much to preserve the scenic beauty of the coast line for the public. All of these results will be without cost to the taxpayers. Measure No. 6 will do nothing to achieve these objectives without cost to the taxpayers. What Measure No. 6 provides is that, to the extent these objectives cannot be achieved without cost to the taxpayers, the taxpayers stand ready to pay the cost.

Most of the measure's opponents who were heard by your Committee, as well as the proponents, agreed that ultimately all beach lands (or easements therein) should be acquired for the public and that the acquisition should be financed from gas tax funds. Measure 6 (and currently *only* Measure 6) will accomplish these objectives. With the funds provided, the state may purchase access routes and beach acreage. Because of rapidly increasing beach land prices and the uncertainties concerning ownership and control of beach lands, your Committee considers it highly important that the state have funds available with which to make purchases promptly where purchases are necessary. Without the sure availability of funds provided by Measure No. 6, fund availability would depend upon legislative appropriation from the general fund. The likelihood for legislative appropriation appears slight in view of competition for available tax dollars in recent years and the fiscal problems projected for the forthcoming biennium.

⁽⁸⁾The Committee is in doubt whether the Commission must acquire ownership of all beach lands, as stated in the policy declaration, or may acquire ownership or easement (as the Commission in its discretion determines is appropriate) as is suggested in other provisions of the measure.

The Committee is sympathetic with the argument that some of the provisions in Measure No. 6 should not be embodied in a constitutional amendment. The Committee views unfavorably as bad precedent the inclusion of a tax measure in the Constitution. However, the Oregon Constitution contains many provisions of lesser importance relating to matters such as sale of liquor by individual glass, financing redevelopment and urban renewal projects, farm and home loans to veterans, state power development, state reforestation, higher education building projects and a veterans' bonus. The measure will therefore not do violence to an otherwise "pure" Constitution, and your Committee therefore feels that this objection is of relatively minor importance compared to the broad policy issue involved. Further, it would be necessary in any event to amend the Constitution to provide bonding authority.

The Committee also disfavours as bad policy the prohibition in Section 7 of the measure against the construction of highways on *any* beach land. It would seem far more desirable to entrust highway location to the discretion of the State Highway Commission. Again, however, alternative highway routes can be chosen and the Committee feels that this objection is likewise subordinate to the basic policy issue involved.

Admittedly the existing rights of the public in beach lands are uncertain, and the identity, quantity and cost of lands which might have to be paid for by the State are subject to doubt. If the *Fultz* decision is upheld by the Oregon Supreme Court, it may be unnecessary for the State to pay moneys to assure the public access to those areas in which the public has acquired rights by prior usage. Accordingly, there is a possibility that the sums estimated to be necessary by the sponsors of the measure will not in fact be required. Even if revenues raised exceed funds required, the Committee would not consider this a serious objection to the measure.

Clearly there are beach areas to which the *Fultz* rule does not apply. Such areas include the areas between the 601 Line and the line of compact natural vegetation and in areas which, in the past, have not been generally accessible to the public. Further, it may be necessary to purchase or condemn access areas and 22 miles of wet sand in private ownership. The exact amount necessary to carry out the acquisition program cannot be estimated with certainty, because:

- (1) the validity of the *Fultz* rule is uncertain until passed upon by the Oregon Supreme Court;
- (2) The *Fultz* rule, if valid, must be applied to the facts in each case, and
- (3) the value of any rights which may be acquired is uncertain and depends upon the dispatch with which the Commission moves.

Opponents of the measure spent a substantial amount of time on the tax features. All Committee members agree with one or more of the points made by Committee Member Mattersdorff in his separate statement of the financial aspects of Measure 6.

Except for Dr. Mattersdorff, all Committee members agree that any beach acquisition program should be financed out of gas tax revenues. At present, Article XI, Section 3, one of the provisions which would be amended by passage of Measure No. 6, authorizes the use of gasoline tax proceeds for highways, roads and streets, and for the acquisition, development, maintenance, care and use of parks, recreational, scenic or other historic places. Acquisition of ocean beaches for their scenic and recreational value for use of the public is closely akin to existing purposes for which such revenues may be used. Such a tax has a reasonable, if by no means perfect, relationship to taxation according to use.

The majority of Committee members, except Dr. Mattersdorff, agree that whatever the financial shortcomings of Measure No. 6, they are secondary to the important objective of attaining public ownership of or easements in beach lands.

The Measure provides that title to and value of a piece of property may be determined in any proceeding. The Committee considers this provision a commendable tool for carrying out the program.

The Measure provides that the \$30,000,000 in bonds may be continued indefinitely. This provision was not intended by the proponents. The proponents assume the Legislature will not authorize any bonds beyond those that may be redeemed from the one-shot, four-year, cent-a-gallon increase in the gasoline tax. The Committee makes the same assumption.

VIII. MAJORITY CONCLUSION

After considering the arguments in favor of and against this initiative measure, and fully recognizing the merits of a number of the arguments opposing adoption of the measure, the majority of your Committee has concluded that the overriding policy consideration favors the positive acquisition policy which the measure authorizes. Had your Committee not concluded that the need for action was urgent because of rapidly increasing beach land costs, it would be inclined to recommend a negative vote.

IX. MAJORITY RECOMMENDATION

The majority of your Committee recommends that the City Club of Portland go on record in favor of the bond issue to acquire ocean beaches, and urges a "Yes" vote on State Measure No. 6.

Respectfully submitted,

John Eliot Allen

Albert H. Bliton

Blake Byrne

Richard E. Ritz

David S. Shannon

Maurice O. Georges, *Chairman*

For the Majority

X. MINORITY REPORT

This minority report reflects disagreement not with the ends of the proposed Constitutional Amendment, but with the means by which they are to be financed. The Minority has two objections that, in its view, are so seriously disabling as to be fatal to the entire proposal:

(1) It was apparently drawn up so hastily that even its authors oppose some of the provisions they now find in it, and

(2) The impact of its financial provisions was evidently never judged on any grounds but those of expediency, even though—from the point of view of proper taxing and budgeting procedure—they make for spectacularly poor policy.

Time used to be when this would not have mattered much. Decades ago, when the state's population was small, when its government played only a relatively minor role, and when its economy was knit together only very loosely, no great harm was done if a group of well-intentioned citizens banded together to promote a pet project of theirs by way of a Constitutional Amendment. In those days, the public business could be conducted rather casually. Legislative sessions were typically brief, and they produced little legislation that would have an immediate, heavy and pervasive impact. No one worried much if the Constitution developed into a jerry-built structure; a tax was judged only on the basis of whether it would collect enough funds for the purpose specifically assigned to it. Objectives were limited, and deeper implications could safely be ignored.

The present proposal seems to your Minority, to have been drafted in the spirit of decades ago. But this will no longer do. Today's conditions demand that proposed legislation be examined minutely, both in legislative debate and by expert testimony to legislative committee before it is voted on. These days, taxes can no longer simply be imposed for specific projects as if that was all that is needed; each tax carries inescapable implications for the efficiency and equity of the State's tax structure at large. The impact of the State's fiscal actions on the economy is now heavy and widely recognized, and the voters have come to insist on budgeting closely and continually reviewing State expenditures.

The proposed Constitutional Amendment ignores all this. It was not publicly reviewed, or officially debated in any way before it was placed on the ballot; there

was no opportunity to find, much less to remove, tax inequities, fiscal inefficiencies, and just plain unintended errors that the proposal contains. State expenditures were projected that will apparently neither be budgeted nor reviewed nor coordinated with other State activities in any way. Some of the proposed procedures are absolutely rigid; others are open-minded, and there are no guidelines for administration at all. These shortcomings seem to your Minority so important that they overwhelm the laudable objectives of the proposal. The discussion below hopes to explain this point of view.

1. FINANCING BEACH ACQUISITIONS—TAX CONSIDERATIONS

Because government projects, in contrast to products by private business, can only rarely be judged by commercial standards, they usually cannot be sold, like apples and oranges, over the counter to those customers who will pay enough to justify producing them. Thus, since commercial principles do not apply, government projects must be financed by a tax—ideally a tax that is equitable, remunerative, and easy to collect. By general agreement, the most equitable tax is the progressive income tax; it is based on “ability to pay,” weighing most heavily on those who can afford it best. But beach acquisition is not to be financed this way.

It has been argued that, instead, beach acquisition should be financed by those who benefit from it. For example, mechanical toll booths could be set up on the one or two dozen roads that lead to Highway 101, or an admissions fee could be charged on the beaches, or permits sold to anyone who wants to use them.

Alternatively, beach acquisition could be financed by those who stand to benefit from the prospective increase in local economic activity that the program will stimulate. A special tax on overnight accommodations along the coast, a franchise tax on businesses operating there, an excise tax on gasoline sold west of the Coastal Range, even a special assessment on the rise in property values attributable to beach acquisitions—anything that relates the cost of buying up beach lands to the presumed benefits enjoyed by those who live or visit or do business there would be fair.

One sponsor of the proposed Constitutional Amendment claimed that a “use tax” had in fact been devised: an extra penny per gallon of gas, to be paid (to put it briefly) only by all drivers of passenger cars throughout the State for the next four years. But he cannot have been serious. To describe this tax as a tax on the users of Oregon’s beaches requires two seemingly heroic assumptions:

- (1) that only the drivers of passenger cars go to the beach, while drivers of motorcycles, trucks, busses, and other commercial vehicles, as well as those people who ride in public conveyances instead of driving, do not go to the beach;

- (2) that the relative use of the beaches by passenger car drivers is proportional to the total amount of gasoline they will buy for all their drives anywhere in the State during the next four years.

Neither assumption appears even remotely realistic, although statistics on this point are not available.

Furthermore, the measure provides that only those vehicles mentioned in paragraph (c) to subsection (1) of ORS 481.210 (meaning only those vehicles that currently must pay a \$10 annual licensing fee) do not qualify for tax refund. Apparently this would make all out-of-state cars, including passenger cars, eligible for tax refunds. This could be justified only if we draw the paradoxical conclusion that out-of-staters do not use Oregon’s beaches and should not be made to pay for them—a point of view that the sponsors of this proposal themselves do not hold.

Under the provisions of the proposal, everyone has to pay the new tax, but many people will be able to get their money back. The sponsors claim that the refunding procedure will be neither difficult nor costly, inasmuch as the machinery for it is already established. (Drivers of tractors, motorboats, and other machinery that does not use the public highways are currently eligible for refunds of the gasoline tax that is now in force.) Yet a very much larger number of drivers become eligible for refunds under the proposed amendment, and the refunding operation, while perhaps no more complex, will have to be expanded considerably. Administratively, tax collection procedures that cannot avoid large refundings are considered inefficient.

It could of course be that most people eligible for a refund of the new tax will not bother to apply for it because the amount involved is likely to be trivial. If so, the new tax would have to be classed as a nuisance tax, the worst form of taxation. Surely this is not what the sponsors of the Constitutional Amendment had in mind, either, as a sound and equitable tax program.

2. FINANCING BEACH ACQUISITIONS—FISCAL CONSIDERATIONS

A. If there is too much money . . .

The sponsors of the Amendment estimate that a \$30 million bond issue will be needed to purchase the beach land necessary to complete their program. Of this sum, about one-third is to go for the acquisition of access rights, the other \$20 million to buy the territory on the beach itself. One cannot quarrel with these estimates, even if Judge Bohannon's subsequent court decision probably depressed the price of beach lands somewhat. Furthermore—as has been known to happen to other real estate booms—the current rapid price increases on beach land might reverse themselves. Besides, the State might attain its objective of public access to all beach lands either through donations of land or through yet other favorable court decisions. Then the sums necessary to acquire the beaches might be much smaller; conceivably they will not be required until much later. In that case, will the tax be collected anyway?

The proposed provisions are extremely inflexible on this point. Needed or not, the penny-a-gallon gasoline tax on passenger cars will pile up relentlessly between January 1, 1969 and December 21, 1972. According to the sponsors of the Amendment, any momentarily superfluous funds will earn interest for the State. But are Oregon taxpayers to pay a tax that is not necessary? Should not tax revenues be responsive to State needs? A better proposal would have been one that made the new tax contingent on the expected bond issue, both in scope and in timing.

What is to be done with funds that have already been collected but are not needed? One proponent suggested that, if there is money in the bank, the people will find a worthy cause to spend it on. This candid line of thought should, however, probably be abandoned immediately because it blurs the entire issue. It will lead voters in the coming election to question not only the means, but also the ends of the proposed Constitutional Amendment—and properly so.

Another proponent thought that the money would in time be needed, for one project or another, on the beaches; he felt that the funds voted in to be used on the Coast should not be employed anywhere else in the State. This attitude, probably appeals to many voters on principle. But it suggests the dangers of the widespread use of "dedicated funds."

Beyond the cost of acquiring beach lands and access to them—here assumed for the moment to be very low—there are relatively few projects on the Coast that urgently require millions of dollars of State expenditure. Thus the chances are that the money, dedicated for use on beach improvements, will be spent on not-so-urgent projects there. At the same time, it may well be that some very urgent needs in the rest of the State—e.g., law enforcement, social services, a number of other hard-pressed projects—cannot be met for lack of funds. Then less important service on the Coast, blessed with dedicated funds, will have been performed by the State, while a more important service elsewhere, not so endowed, had to be denied. This possibility argues consistently against the institution of "earmarked" taxes like the one proposed here.

B. If there is too little money . . .

Believers in Parkinson's Law (that expenditures rise to meet incomes), Coastal optimists convinced of perpetual increases of property values there, and skeptics who insist that neither property owners nor the courts will be generous in making beach lands freely available to the public, all insist that the \$30 million bond issue will not be enough.

The proposed Amendment leaves room for expanded costs; it merely puts a \$30 million ceiling on the amount of debt outstanding at any one time for beach acquisition. The estimated \$41 million of State revenues from the "earmarked" penny-a-gallon gasoline tax are to go toward the payment of principal and interest,

in unspecified proportion. (Through an oversight by the drafters, there is no explicit obligation to pay off the debt with these funds.) Any unpaid bills remaining after December 31, 1972—when the penny-a-gallon tax stops—are to become obligations of the General Fund (unless, in another Constitutional Amendment, the special tax is extended). One might well object to these potential drains on the General Fund.

Furthermore, most experts on the budgetary process will agree that this procedure leaves insufficient room for control and review of expenditures for beach acquisitions. Without reflecting on the ability and integrity of the State Highway Commission, one may ask whether any public agency should be given proceeds from a \$30 million bond issue without ever having to account for its expenditures to anyone—especially when it was not the agency that requested the funds, but a group of well-intentioned citizens who will have no voice whatever in the actual administration or supervision of their program. Surely, beach acquisition, like other State programs, should receive the scrutiny not only of the administering agency, but also of the State Treasurer, the Budget Director, and the Governor.

Finally, the program should have definite limits. As it is, though the sponsors of the Amendment are very proud of not initiating a program without funds to pay for it, they have in fact initiated for the State an open-ended commitment to finance out of the General Fund a program that might well turn out to be under-financed. This is cause for considerable concern not only to conservatives, but also to those who believe that, to function efficiently, State officials need both a certain degree of freedom of action and a mandate that tells them roughly how far they can go. This proposed measure, restrictive as it is in some respects, gives no guidance at all in others. If it passes, it is unlikely to be an effective instrument of policy without first causing a good deal of dispute.

XI. MINORITY CONCLUSIONS

These comments hope to point out that the financial aspects of the proposed measure have shortcomings so serious that they outweigh the benefits of immediate approval. Your Minority feels, reluctantly, that the proposal should be rejected at this time, to be introduced at the next opportunity in a new and improved form.

XII. MINORITY RECOMMENDATION

The Minority of your Committee, therefore, recommends that the City Club of Portland go on record in opposition to the Beach Acquisition Constitutional Amendment, and recommends a "No" vote on State Measure No. 6.

Respectfully submitted,
G. H. Mattersdorff
for the Minority

Approved by the Research Board October 17, 1968 and submitted to the Board of Governors.

Received by the Board of Governors October 21, 1968 and ordered printed and submitted to the membership.

**REPORT
ON
GOVERNMENT CENTER
AUTHORIZING SALE OF COUNTY BONDS TO FINANCE COST OF
PURCHASE OF SITE FOR EXPANSION OF COUNTY COURT HOUSE
(Multnomah County Measure No. 8)**

Shall Multnomah County, Oregon, issue and sell \$4,000,000 in general obligation bonds to finance the cost of acquiring lands in the Government Center in the City of Portland upon which to construct buildings and other facilities as additions to the Multnomah County Court House?

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

Your Committee was formed to study and report on Multnomah County Ballot Measure No. 8 which will come before the voters at the general election on November 5, 1968. This measure appears on the ballot by virtue of an order of the Board of County Commissioners, Multnomah County, dated Sept. 12, 1968:

"ORDERED that there be submitted to the legal voters of Multnomah County, Oregon, at the General Election of November 5, 1968, the question as to whether Multnomah County shall issue and sell general obligation bonds of Multnomah County in the amount of \$4,000,000.00 to provide funds to finance the cost of acquiring land as a site for the construction of buildings and related facilities required by the expansion of the Multnomah County Court House, which said bonds shall mature within twenty (20) years from date of issue and shall bear a rate of interest not to exceed six percent (6%) per annum;"

Members of your Committee represent the professions of law, finance, business management, and architecture, and they were chosen deliberately so that the corresponding aspects of the implications of this measure could be evaluated effectively in the short time which the Committee had at its disposal.

II. SCOPE OF RESEARCH

Your Committee has examined the following documents:

Resolution. Board of County Commissioners for Multnomah County (September 12, 1968)

In the matter of the Acquisition of Real Property as a Site for the Construction of Buildings and Related Facilities Required for the Expansion of the MULTNOMAH COUNTY COURT HOUSE.

Fact Sheet on Government Civic Center, Greater Portland Committee, 614 Jackson Tower, Portland.

The Constitution of Oregon and Oregon State Statutes governing Public Buildings, County Government, Use of Public Lands, Public Borrowing and Bonds, and Assessment of Property for Taxation. (Specific Statutes are referred to by number in the text below).

Analysis of Space Use—Report to Multnomah County and The City of Portland, Oregon, SUA, Inc., 8500 Wilshire Blvd., Beverly Hills, Calif.

City-County Government Center—Development Plan, Wolfe, Zimmer, Gunsul, Frasca and Ritter, Architects, Pietro Belluschi FAIA, Consultant.

Municipal Jail Report, Portland City Club Bulletin, June 18, 1948.

Jail, Municipal Court, Police Facilities Levy Report, Portland City Club Bulletin, October 16, 1964.

Members of your Committee, singly or in groups, have interviewed the following persons:

Commissioners M. James Gleason, Chairman and David Eccles,
Multnomah County.

The Honorable Terry D. Schrunck, Mayor, City of Portland.

Richard Lakeman and Rodney O'Hiser, Senior Planners and Michael
McNamara, Staff Planner, Portland Planning Commission.

Brooks Gunsul, Architect.

Kermit M. Carson, Deputy Director, Multnomah County Department
of Finance.

George Henderson, co-Chairman, Greater Portland Committee.

Mrs. Richard Tocher and Mrs. Ruth Spielman,
League of Women Voters.

Gordon Van Antwerp, Executive Vice President, and Richard Lucke,
Chairman, Legislation and Taxation Committee, Portland Board
of Realtors.

Craig Kelley, Executive Vice President, Portland Association of
Building Owners and Managers.

Oliver C. Larson, Executive Vice President,
Portland Chamber of Commerce.

Sam Plunkett, Executive Secretary, Apartment House Owners Association.

Gary Zimmerman, Executive Secretary, Portland Homebuilders Association.

Robert L. Stanfill, Secretary, Oregon State Building and Construction
Trades Council, Multnomah County Labor Council, Oregon AFL-CIO.

William Brosy, Oregon United Taxpayers.

Howard Rankin, bond issue examining attorney.

Willis Thompson, Executive Secretary, Multnomah County Tax Super-
vising and Conservation Commission.

Willis West, Chief Civil Deputy District Attorney, Multnomah County.

III. BACKGROUND FOR THE MEASURE

The specific land to be purchased with the money provided by bonds to be authorized by Measure No. 8 is not mentioned either in the ballot measure or in the County Commissioners Resolution, beyond the phrase "Land in the immediate vicinity of the present Multnomah County Courthouse," in the Order adopting the Resolution. However, it is understood by all those interviewed that the four city blocks bounded by Southwest Salmon and Madison Streets and Southwest First and Third Avenues are under consideration.

Ever since the City Hall and the County Courthouse were built, both City and County governments have been centered in this area of the City. Your Committee has not uncovered any compelling arguments why such government activities should or should not stay there. Those studies that were available appear to establish the plausibility and possibility of an expansion of City and County governmental facilities in this area. With the projected growth of the whole metropolitan area in mind, it seems clear that an expansion of these facilities is needed.

Both County and City officials are anticipating an ultimate consolidation of the two overlapping governments, although details of the mechanism by which a consolidation of city and county government can be accomplished—and, in particular by which space and facilities can be arranged for both governments now and ultimately for a single government—are not agreed upon. The officials see a Government Center as a reasonable and necessary home for this combined government. The 1963 State Legislature appointed a Metropolitan Study Commission to

make recommendations for the simplification of government in the Portland Metropolitan Area which contains three counties with 150 local governmental jurisdictions. At that time the Portland City Council and the Multnomah County Board of Commissioners began informal joint meetings, and then they have met and cooperated as the "City-County Coordinating Committee". It is clear that the thinking which has gone into the decision by the County Commissioners to place Measure No. 8 on the ballot has been fully participated in by the Office of the Mayor of the City and by the City Council.

There are two systematic studies which lead to plans for a Government Center in the area of the County Courthouse and the City Hall. The City-County Coordinating Committee engaged SUA, Inc. (Space Utilization Associates) to report on space needs for the city and county governments until 1990, and this report was submitted on December 30, 1966. Subsequently, the City-County Management Committee of the City-County Coordinating Committee engaged the firm of Wolf, Zimmer, Gunsul, Frasca and Ritter, Architects, with Pietro Belluschi, F.A.I.A. Consultant, to work out a development plan for a City-County Government Center. On March 1, 1968, this firm presented a plan which includes a court building, a public safety building and a parking garage. (A model is displayed at the 4th Avenue entrance of the Courthouse). Prior to these studies, a survey was made, in 1964, for the City Planning Commission and the Portland Development Commission by the firm of Livingston and Blayne, Inc., city and regional planners. This study also outlined a Government Center in the same area. Your Committee has not seen this survey, but it was informed that plan differs significantly from the Wolf, Zimmer, Gunsul, Frasca and Ritter plan. For example, the earlier plan provides for the vacation of certain streets, and the more recent plan does not. Your Committee has not attempted to evaluate these alternative proposals, but has established that significant differences of opinion exist about their merits.

Because your Committee believes that public attention has not been strongly directed to these planning activities while they were going on, it may not be clear to the voters that Measure No. 8 is only the first step in the realization of a major building project. Evaluation of this larger project is not your Committee's assignment, but if a Government Center proposed for this site is not ultimately approved, then Measure No. 8 is irrelevant and the issue disappears. The Committee is assuming, in the following discussion, then, that the planning in progress will lead to a desirable and efficient Government Center, and asks whether the approach taken by Measure No. 8 is advisable.

IV. DISCUSSION

1. Financial Considerations.

According to the County Commissioners, the four-block area proposed for purchase by the County is appraised for real property taxes at approximately \$1,250,000, but the appraisal is outdated. They feel a new appraisal might well indicate a value of approximately \$2,500,000. The revised valuation is still relatively low and is attributable to the advanced deterioration of the buildings as well as the distance of the area from the center of downtown Portland. For comparison, land two or three blocks west and north of this four-block area is valued today at about \$1,000,000 per block, exclusive of improvements.

In the event the property can be acquired for less than \$4,000,000, the amount of the bond issue would be reduced proportionately, according to Commissioner Gleason. It is not likely that all of the property can be purchased by negotiation, but condemnation proceedings are available to the County wherever necessary. The total cost of the four-block area to the County cannot be precisely determined until the County obtains an independent appraisal of the property. Apparently, if the proceeds of the bond issue exceed the cost of the property, the excess will be earmarked to meet payments of principal and interest due on the bonds. Costs of demolishing present improvements will also be paid out of the proceeds of the bond issues.

Oregon Revised Statutes, 287.052 to 287.074, provide for issuance of bonds by counties. Pursuant to that authority, Multnomah County proposes to issue general obligation bonds in the amount of \$4,000,000, to mature in 20 years and to

bear interest at a rate not to exceed 6 percent per annum. The bonds would be in serial form and would mature in annual installments of principal interest to be paid semi-annually.

General obligation bonds are a charge against the general credit of the County. The general funds received by the County from whatever source are available to meet payments of principal and interest of such bonds in the order of priority of these bonds relative to all County obligations.

The statutory limitation that interest shall not exceed a rate of 6 percent will not be a problem to the County, since bonds of this quality probably could be sold in today's market at a rate of approximately 4.5 percent. It is not likely that conditions in the bond market will change sufficiently to the disadvantage of the County, by the time of sale of the bonds, to increase the interest rate to the statutory limit.

Multnomah County had over \$4 billion maximum true cash value of all taxable property as of July 1, 1968. At that time its outstanding bonded indebtedness for general obligation bonds was \$5,380,000. The present bonding limit of the County is about \$80,000,000. The \$4,000,000 issue would increase the general obligation bonded indebtedness to an amount less than the 2 percent of the true cash value limitation set forth in ORS 287.054.

The credit of the City of Portland is not a factor in the proposed project; bonding construction and ownership is exclusively a County project. The City will lease space from the County in new facilities to be built on the property. The County proposes to charge the City rental based only on re-imbursement of operating expenses. Rental will not include a charge for amortization of the cost of the land and buildings. According to Commissioner Gleason, this is so because the cost of the bond issue will be borne by all property owners within the County, which includes property within the City of Portland, and if the City shared the cost of amortization of the bond issue, property owners within the City would bear a double charge.

It should be pointed out, however, that under the rental proposal of the County, property owners in the County outside the City of Portland will be providing facilities for the City at less than fair rental value.

Mayor Schrunk has informed the Committee that, if the County provides the holding-jail facilities, the City intends to sell the present jail facilities at Second and Oak Streets, the proceeds of the sale accruing to the City.

The \$4,000,000 bond issue is for land alone. Construction of the planned improvements is currently estimated to cost \$32,000,000. A future bond issue will be required to provide construction funds.

Bonds of \$4,000,000 issued in advance of the construction program will incur an annual interest charge of approximately \$180,000 (assuming a 4.5 percent rate). However, federal aid is available through the Department of Housing and Urban Development to provide 100 percent of the interest charge until the entire project is completed. Also, in the meantime, the County may expect to receive some rentals from short-term occupants of the property.

Financially, the advantage of land acquisition by the County now is to fix the land cost and assure the availability of the property thus avoiding the penalty of continued appreciation of land value and avoiding the possible prohibitive cost of condemnation or purchase of new, modern improvements on the property that might be constructed if the property remained in private ownership.

2. Legal Considerations.

It appears to your Committee that Measure No. 8 may well be based upon an unduly broad interpretation of the State statutes covering courthouse construction. On its face, the measure speaks only in terms of site acquisition for *additions* to the Multnomah County Courthouse, when it is apparent that entirely new buildings are contemplated. If the proposed center is not construed to be an addition to the County Courthouse, then it would appear not to be within the general powers of the County to acquire the land for this purpose.⁽¹⁾ Thus the measure would seek voter approval of general obligation bonds in the manner and to the extent permitted by Oregon organic and statutory law.⁽²⁾

⁽¹⁾ORS 203.010(2), 203.120(1), ORS 203.210, and 203.240.

⁽²⁾Oregon Constitution, Art. XI, S. 10, ORS 287.052 et seq, ORS 308.207.

Your Committee's investigation indicates that the County is contemplating more than site acquisition for a mere expansion of present Multnomah County Courthouse activities. First, it may really intend a new courthouse. Second, it clearly intends a joint city-county complex. Third, it is the first step in a development, the total cost of which will greatly exceed the \$4,000,000 to be provided by this measure.

If "addition" is in fact a new courthouse, the present ballot measure may be ineffective. ORS 276.710 et seq. contain strict procedures including notice, a public hearing, petitions for election and submission of other sites, and submission of *these issues* as well as financing methods to the voters where a new courthouse is involved, whether financing is to be done by special levy or bonds.⁽³⁾ The Attorney General has noted the democratic essence and mandatory nature of these procedures:

"A reading of the above statutes (ORS 276.710 et seq.) clearly shows that in the construction of a new courthouse or changing the location the legislature spelled out the procedure whereby the County Court was to give the people of the county an opportunity to express their will at the polls upon the questions of providing funds and establishing the location. The language of the statute governing these matters is expressed in mandatory language."⁽⁴⁾

The election provided by ORS 276.722 is contingent upon notice of hearing, public hearing and presentation of petitions at the hearing. The election procedure is also contingent on the County's announcement of a definite description of the new courthouse site, the approximate cost of the site and proposed courthouse and of the approximate construction commencement date. These specifics are all omitted by Multnomah County in the proposed ballot measure.⁽⁵⁾

The County may be taking the position that passage of the Multnomah County Home Rule Charter repeals or eliminates the requirements of Chapter 276 ORS. However, inspection of State legislation pertaining to Home Rule Charters and inspection of Chapters II, VIII, and X of the Multnomah County Home Rule Charter does not indicate that Multnomah County is exempt from the requirements of Chapter 276 ORS by virtue of County Home Rule.

The County has taken the position that this is only an expansion or addition to the County Courthouse, relying, it is assumed, upon a statutory exclusion for "additions to county courthouses such as jails, vaults, additional offices, etc." This statutory exclusion does not apply to new courthouses.⁽⁶⁾ Furthermore, there is authority that complete rebuilding on a present courthouse site would itself be erection of a new courthouse—not just repair and maintenance. Also, there is some dispute as to whether the proposed site (which is one block away from the present Courthouse) could be considered an addition. At least one Attorney General's opinion has indicated a requirement of physical connection, and that immediate contiguity is not enough.⁽⁷⁾

The County attempts to bolster its position that this will be an addition to the present Courthouse by contending that the Multnomah County Commissioners are a County Court. The architect's preliminary specifications and plans clearly indicate that all county and city judicial courts will be in a proposed new structure, not in the existing building. Also, the Multnomah County Commissioners are only a County Court to the extent of non-judicial business of the County. Ever since 1919, all judicial powers formerly vested in Multnomah County's Board of Commissioners have been vested in the Multnomah County Circuit and District Courts. Even if the Multnomah County Commissioners were to remain in the present courthouse structure, it might not legally remain as the County Courthouse. It seems clear that there is a serious question on this point, and if the County Commissioners are wrong, the bonds could not be sold, in which case, the proposed

(3) 1960-62 AG Op 358.

(4) 1964-66 AG Op 116-117.

(5) 1960-62 AG Op 358.

(6) ORS 276.730.

(7) 1956-58 AG Op 116-117.

purchase of the property would be prevented and unnecessary delay in the overall project may well occur.

One of the questions that might be aired if hearings were held is the rent to be paid by the City. If, as is now proposed, the rent does not include apportioned amounts for amortization of building cost, and return on the building cost and return on the investment in land, County taxpayers outside the City will be paying a portion of the cost of facilities allocated to the City.

3. Space Consideration.

The need for acquisition of land in the vicinity of the present courthouse is based on a decision to expand governmental facilities in this particular area. A judgment on this decision is outside the scope of this report, and yet the propriety of the bond issue of Measure No. 8 is directly affected by such a judgment.

Briefly, your Committee heard no significant arguments for the expansion of facilities in any other location in the metropolitan area. A representative of the architects, Wolf, Zimmer, Gunsul, Frasca and Ritter, indicated that the firm was engaged to design a Government Center specifically in the proposed area. The larger question of alternatives to this location was not its assignment. It is not clear to your Committee where or how this fundamental decision was reached. Your Committee is satisfied that expanded facilities are needed, but it is not satisfied that the proposed location has been determined to be the best one for the long run.

V. ARGUMENTS IN FAVOR OF THE MEASURE

Arguments advanced to the Committee favoring Measure No. 8 included:

1. Present facilities for city-county government including jails and courts, are inadequate and inefficient and are in need of expansion and modernization.
2. The proposed expansion should be initiated by acquisition of land for these facilities to "freeze" land costs at current market values.
3. The land to be acquired is in the area of present City Hall and County Courthouse.
4. The land to be acquired is in an area where urban renewal is needed.
5. The Government Center would be suitable in the event of city-county consolidation.
6. The County has the bonding capacity to issue the bonds. In addition, the County has the capacity for a subsequent bond issue of \$32 million necessary to complete the Government Center.

VI. ARGUMENTS AGAINST THE MEASURE


Arguments advanced to your Committee in opposition to Measure No. 8 have included:

1. The public has not been presented with a carefully drawn comprehensive plan for a Government Center, specifying the precise land involved, the proposed structures and improvements, and the cost of the total Center, as well as of the component parts. The public has not had the opportunity to express its views regarding such a comprehensive plan. If the remainder of the project is turned down in future elections, the County is merely speculating in land.
2. Despite the wording of the ballot title, the building will be a new courthouse, not an addition to an existing courthouse. Therefore the election may be negated because of failure to follow specific legal procedures required for construction of a new county courthouse, or relocation of an existing county courthouse.
3. The City and County jointly own one block located between the County Courthouse and City Hall, on which site a highrise facility could be erected.
4. The area will renew itself without development as a City-County Center.
5. Other suitable sites may exist and should be considered.
6. In the proposed Center, the City would not be paying its fair share of land and building costs, shifting a disproportionate burden to County residents.

VII. MAJORITY CONCLUSION

This bond issue would clearly be the first step toward establishment of a much-needed city-county complex, the cost of which will greatly exceed \$4,000,000. An undertaking of such magnitude requires more careful planning, a fuller public disclosure and discussion, and a more careful examination of serious legal questions than apparently has been done. The failure of the County to take these steps, in the Committee's judgment, outweighs all other considerations and requires opposition to the measure.

VIII. MAJORITY RECOMMENDATION

The majority of the Committee, therefore, recommends that the City Club go on record in opposition to this County Bond Issue and urges a "No" vote on County Measure No. 8. 

Respectfully submitted,
Ralph F. Appleman
Thomas T. Cook, Jr.
Allen D. Cover
Dr. Scott Durdan
Stanley R. Loeb /
Robert L. Weiss
M. Y. Zucker *and*
Lloyd Williams, *Chairman*
For the Majority

IX. MINORITY DISCUSSION

A Minority of your Committee dissents from the Majority report on the following points:

(1) Arguments against the measure are not persuasive enough to recommend a "no" vote because the majority report does not attach proper weight to the importance of the Tax Supervising and Conservation Commission, but apparently does attach significant weight to legal value judgments which a lay committee is not capable of making.

(2) Arguments listed in favor of the measure are superficial and do not point out important savings which may accrue over the years to all taxpayers by the adoption of Ballot Measure No. 8. The Majority has, in the opinion of the Minority, failed to come to grips with the importance of court-related and police functions of the City and County, and the fact that these functions are indeed the most important in consideration of a site acquisition.

(3) As a result of not having given the proper attention to points (1) and (2), the Majority report contains certain imprecise language which, in the opinion of the Minority, casts a somewhat unfavorable and prejudicial light on the total report. Such sentences and phrases as "It is not clear to your Committee where or how this fundamental decision was reached" and "fuller public disclosure and discussion, and a more careful examination of serious legal questions than apparently has been done" broadly imply, in the Minority's opinion, the possible existence of some hidden circumstances which do not, in fact, exist.

The Minority report now addresses itself to (1), which the Majority report lists under the subheading of "Legal Considerations." The facts are that the Tax Supervising and Conservation Commission, which is composed of members appointed by the Governor's office, acts as the public's watch dog in the study and approval of all tax and bonding measures. The Tax Supervising and Conservation Commission did, on September 25, 1968 at 10:30 a.m., begin consideration, in public hearings which had been publicized, of the Resolution and Order adopted by the Multnomah County Board of Commissioners. These resolutions and orders

had been approved as to form by Willis A. West, Chief Civil Deputy for the District Attorney. In view of the fact that the ballot title has been approved by the legal authority upon whom the Commissioners must depend and by the Tax Supervising and Conservation Commission, your Minority believes that speculation as to possible future court decisions or Attorney General's opinion is, for the purpose of this report, irrelevant.

In this regard, the Majority conclusion that an undertaking of such magnitude requires more careful planning, a fuller public disclosure and discussion, and "a more careful examination of serious legal questions than apparently has been done," also becomes moot because these very conditions are now required by Oregon law. A further bond issue for ultimate construction of buildings *must* be approved by the watch dog Tax Supervising and Conservation Commission at a public hearing which has been legally advertised. Full disclosure of the possible purchase of land has already been made, and full disclosure of subsequent bonding for structures must follow the exact pattern prescribed by law.

Your Minority now addresses itself to the Majority's points (2) and (3), with specific attention to the Majority's inability to find "where or how this fundamental decision was reached." The Minority believes the historical background should leave no doubt.

The Oregon State Legislature in 1963 created the Metropolitan Study Commission to which it gave the responsibility of bringing in recommendations for the simplification and streamlining of government in the Portland Metropolitan Area. With this impetus the Portland City Council and the Multnomah Board of County Commissioners began to meet to discuss mutual problems and eventually this group became known as the City-County Coordinating Committee. County Commissioner David Eccles and City Commissioner William A. Bowes currently serve as the City-County Management Committee.

Looking toward the eventual simplification of government, the City and County subsequently engaged the services of SUA, Inc., a Beverly Hills space analysis firm, to make a survey of the requirements for space until 1990 of the City and County governments. This report was delivered to the City-County Coordinating Committee December 30, 1966. Total cost was approximately \$78,000. This report runs to several hundred typewritten pages. It was made available to your current research committee, although the Majority report makes only passing reference to it. It is this report which is the focal point for the current proposal for acquisition of property.

The report is far too comprehensive to quote from here, but its emphasis was upon the construction of a public safety building to house the rapidly expanding Municipal and District Court system and the construction of an adequate jail for joint City and County use which, under the jail consolidation envisioned, would save the taxpayers \$330,000 annually in salaries alone by 1975. It is the opinion of your Minority that the over-all statistics in the SUA report are so compelling that the County and City Commissioners would have been grossly derelict in their duties if they had not made a thoroughgoing attempt to carry out the recommendations which they bought and paid for.

The SUA report did not specify a site for the construction of the new buildings it held necessary for an expanding City and County operation. The City-County Coordinating Committee decided to focus on a somewhat modified form of what the report refers to as "Alternative Plan B" which would utilize both the City Hall and the Courthouse in their present uses and would, as a building program, include a Public Safety Building, a parking structure for this building, and a Courts building.

In connection with the construction of a Courts building it is important to understand the present explosive situation in court space. The present Courthouse has twelve court rooms, but it currently must provide 16 Circuit Courts and the addition of a 17th in January, 1969. It must also provide five District Courts, and the City must provide currently for five Municipal Courts.

Handling and holding of prisoners is a paramount issue and, for ultimate safety, holding facilities should be as close as possible to the court-related functions of handling prisoners. But court-related functions demand the day-to-day attend-

ance of the members of the legal profession who must have quick access to the Courthouse. It is the opinion of the Minority that the City-County Coordinating Committee, in its choice of land area, in the interest of saving time for the legal community and serving the convenience of the total community, properly did not consider anything other than a core-area site close to the Courthouse.

Your Minority's judgment is that the City-County Coordinating Committee has from the first been hopeful of obtaining the four-block area bounded by Southwest Salmon and Madison Streets and Southwest First and Third Avenues. Evidence of this is most plainly seen in the fact that the Commissioners have been able to persuade the General Services Administration to revise its plans for a high-rise federal building, to allow an additional plaza block for the proposed City-County Government Center.

Your Minority's opinion, in view of the research materials it has studied, is that this site is indeed not only the best but perhaps the *only* site which can be reasonably acquired for the necessary courts and public safety buildings which would be quickly accessible to the existing Courthouse.

Your Minority recognizes the validity of the Majority argument that County taxpayers may be paying a share of a capital investment for City use which will not be amortized by the City. At the same time your Minority points out that of the total assessed valuation of Multnomah County of \$4,700,000,000, more than \$2,900,000,000 lies within the city limits of Portland and that police and legal functions are for *all* citizens. Your Minority further points out that the SUA projection for the typical daily prisoner load in 1990 will be 281 for the City and 438 for the County.

On March 1, 1968, Commissioner Eccles and Commissioner Bowes transmitted to the City-County Coordinating Committee a development plan for a City-County Government Center with a preliminary design by Wolf, Zimmer, Gunsul, Frasca and Ritter, and Pietro Belluschi, F.A.I.A. consultant. Your Minority points out that the development plan refers specifically to a "preliminary design" and that at this point the Coordinating Committee is not necessarily "married" to the current design. The Minority points out further that even if this were a permanent design, it could not be submitted to the voters for approval without a legally advertised public hearing before the Tax Supervising and Conservation Commission at which time objections may be stated.

So much for the "where and how this fundamental decision was reached".

Your minority agrees with — and wishes to emphasize — the statement of the Majority that the measure deals with "the first step in creation of a county-city Government Center, the total cost of which will greatly exceed \$4,000,000." Obviously, this is exactly what it deals with — and your Minority submits it is being dealt with in a thoroughly open, above-board and legal manner.

X. MINORITY CONCLUSION

In view of the material the Minority has examined, and which has been available to the Majority, the Minority concludes:

1. That City and County Commissioners are faithfully trying to carry out the recommendations of a space utilization survey for which they paid approximately \$78,000.

2. That in so doing the City and County Commissioners have faithfully made full disclosure and have faithfully followed the legal advice of the District Attorney's office.

3. That they have presented preliminary plans for a City-County Government Center, which, depending upon when it may eventually be built, will cost approximately \$35,000,000 or more.

4. That considering the political climate it is unwise to present a bond issue of that greater size at the November, 1968, general election.

5. That the site currently contemplated is the logical site and that it can currently be purchased at a cost in increased taxes of between 5 and 9 cents per \$1000 of true cash value.

6. That the decision to acquire the site while it can be obtained at the currently quoted figure is a logical and wise approach in view of the fact that full disclosure has already been made of what the Commissioners eventually plan to use the property for.

XI. MINORITY RECOMMENDATION

Therefore, your Minority agrees with the City Club study of May 19, 1961 on "Portland City Government" which said, "The business of government is government", and believes that in this instance City and County governments are living up to their high obligations, and therefore urges a "Yes" vote on County Measure No. 8.

Respectfully submitted,

Del Leeson

For the Minority

**REPORT
ON
TAX BASE PROPOSAL FOR
METROPOLITAN AREA EDUCATION DISTRICT
(Area District Measure No. 10)**

Purpose: Proposes that a tax base be adopted for Metropolitan Area Education District in the amount of \$4,123,711 with which to provide the local share of financial support for the community college.

To the Board of Governors,
The City Club of Portland:

I. ASSIGNMENT

Your Committee was authorized to study and report on Metropolitan Area Education District Measure No. 10 to be voted on at the general election on November 5, 1968. This measure would establish a tax base for the new Metropolitan Area Education District which was created in an election on June 6, 1968. A tax base provides an annual limit up to which taxes may be levied by the taxing district without submitting them to the taxpayers, and which limit is subject to the 6 percent limitation.

II. SCOPE OF COMMITTEE RESEARCH

The following persons were interviewed by the Committee:

1. Dr. Amo DeBernardis, President of Portland Community College.
2. Robert Ridgley, Chairman of the Board, School District No. 1, Multnomah County.
3. George Annala, Manager, Oregon Tax Research.
4. Malcolm Bauer, Associate Editor, *The Oregonian*.
5. William E. Bade, Fiscal Officer, School District No. 1, Multnomah County.
6. Dr. Robert A. Bissett, Metropolitan Area Education District Board Member.

The Committee reviewed the following reports of prior City Club committees:

1. Report on Community College Program in Oregon, City Club Bulletin, Vol. 47, No. 44, March 31, 1967.
2. Report on Higher Education and Community College Bonds, City Club Bulletin, Vol. 48, No. 48, April 26, 1968.
3. Report on Area Education District, City Club Bulletin, Vol. 48, No. 52, May 24, 1968.

III. INTRODUCTION

The newly-created Metropolitan Area Education District for the Portland Community College includes all of the metropolitan area except that part included in the Mt. Hood Community College District to the east and in the Clackamas County Community College District to the south. The proposed tax base takes in all of Washington County and parts of Multnomah, Clackamas, Yamhill and Columbia Counties. It includes the public school districts of Portland (School District No. 1), Riverdale, Sauvies Island, Lake Oswego, Washington County, St. Helens, Scappoose, Vernonia and Newberg. A tax base of \$4,123,711 would result in a tax of

\$8.89 per \$1,000 true cash value of taxable property which for the total district is \$4,444,858,917, broken down in rounded figures is as follows:

1. Multnomah County	\$3,161,900,000
2. Washington County	930,600,000
3. Columbia County	141,600,000
4. Clackamas County	144,400,000
5. Yamhill County	67,600,000

IV. GENERAL DISCUSSION

The Metropolitan Area Education District for which the new tax base is requested was established by a vote of the people of the metropolitan area affected at a special election on June 6, 1968. The only community college campus presently operating in this district is Portland Community College, which was established and has been supported by the Portland School District No. 1, Multnomah County. The new district was originally established at the request of school districts outside of the Portland school district which wished to participate in a common community college, as well as of substantial groups within School District No. 1.⁽¹⁾ The establishment of the new tax base would result in disassociating Portland School District No. 1 from the support or operation of the community college. It has been tentatively determined that the new area education district will pay the sum of \$3,000,000 to Portland School District No. 1 for the existing plant and facilities. The present projection is for the new area education district to take over the operation of the college on July 1, 1969, if the taxpayers approve the proposed tax base.

Your Committee has discussed with various school officials the proposed budget on which the tax base was determined. The budget is attached as Appendix No. 1. Your Committee has also discussed with school authorities the enrollment projections on which the budget is based. The enrollment projections are included in Appendix No. 1. A review of the projections of enrollment and the budget, by your Committee, indicates to them that although the figures are variable and not to be accepted as being completely accurate, they are the best obtainable under present conditions of mushrooming growth of the community college system.

Your Committee considered the effect of passage of the 1½ percent limitation on this tax base and concluded that no one can give an accurate estimate of its impact in the event of its passage.

Your Committee found that the new tax base adopted for Portland School District No. 1 on May 28, 1968, included an item of \$688,000 for operating expense of the community colleges. Your Committee feels that there is a possibility that taxpayers within Portland School District No. 1 may in the future pay higher taxes for education, depending on the application of these funds by the School District. The School District has not determined where the \$688,000 now included in its tax base would be allocated, or whether it would be expended if this measure passes. The Committee feels, however, that the tax measure for the Metropolitan Area Education District should be judged on its own merits. The matter of the budget of Portland School District No. 1 must be taken up as a separate matter.

V. CONCLUSION

Your Committee feels that the separate Metropolitan Area Education District is necessary as concluded by the City Club previously and that such a district cannot operate in a businesslike manner without a tax base. It would be possible to operate on an annual or special levy without a tax base, but this would complicate all planning and operation and there is the risk that the failure of a levy could result in loss of federal and state matching funds. It does appear that there could be a tax base windfall to the Portland School District No. 1 by passage of the

⁽¹⁾ See City Club reports mentioned in II Scope of Committee Research, *supra*.

metropolitan education tax base, but the tax base is needed to finance the metropolitan area education district — a separate entity to serve all of the area involved rather than just that within the city of Portland.

VI. RECOMMENDATION

Your Committee therefore recommends that the City Club go on record in favor of the new tax base for the Metropolitan Area Community College district and urge a "Yes" vote at the general election on November 5, 1968 on Measure No. 10.

Respectfully submitted,

Donald D. Casey

Donald B. Kane

Neil Meagher

John F. Mower

Fritz H. Neisser

Robert M. York

Robert W. McMenamin, *Chairman*

Approved by the Research Board October 24, 1968 and submitted to the Board of Governors.

Received by the Board of Governors October 28, 1968 and ordered printed and submitted to the membership.

APPENDIX 1

Forecast of Operating Budget and Building Fund for 1969 to 1979, Utilizing Varying Tax Base
(8% Cost Escalation Per Year)

for Metropolitan Area Education District

	1969-1970	1970-1971	1971-1972	1972-1973	1973-1974	1974-1975	1975-1976	1976-1977	1977-1978	1978-1979
Enrollment (Full time equivalent)	6,517 ⁽¹⁾	7,584	8,652	9,720	10,788	11,857	12,857	13,857	14,857	15,857
Total Operating Budget	\$ 5,702,374	\$ 7,166,880	\$ 8,825,040	\$10,711,440	\$12,837,720	\$15,236,245	\$16,455,144	\$17,771,555	\$19,193,279	\$20,728,741
Tuition 30%	1,710,712	2,150,064	2,647,512	3,213,432	3,851,316	4,570,874	4,936,543	5,331,467	5,757,984	6,218,622
State & Federal 50%	2,851,187	3,583,440	4,412,520	5,355,720	6,418,860	7,618,122	8,227,572	8,885,777	9,596,639	10,364,371
Local 20%	1,140,475	1,433,376	1,765,008	2,142,288	2,567,544	3,047,249	3,291,029	3,554,311	3,838,656	4,145,748
Tax Base ⁽²⁾	4,000,000	4,240,000	4,494,400	4,764,064	5,049,908	5,352,902	5,674,076	6,014,520	6,375,392	6,757,915
Actual Levy	4,123,711 ⁽³⁾									
(Local Share of Operating Budget)	1,140,475	1,433,376	1,765,008	2,142,288	2,567,544	3,047,249	3,291,029	3,554,311	3,838,656	4,145,748
Building Funds	2,859,525	2,806,624	2,729,392	2,621,776	2,482,364	2,305,653	2,383,047	2,460,209	2,536,736	2,612,167
TOTAL BUILDING FUNDS										\$25,797,493

(1) The 1969-70 figure represents the full-time equivalent of some 25,000 students.

(2) Includes annual 6 percent increase.

(3) The collectible taxes amount to 97% of the actual levy; therefore, in order to collect the desired amount of taxes, it is necessary to establish a tax base which is 3% higher than the amount desired for operations and building funds.

**REPORT
ON
CONSTITUTIONAL AMENDMENT
BROADENING COUNTY DEBT LIMITATION**

(State Measure No. 4)

Purpose: Broadens present county constitutional debt limitation so as to authorize agreements to purchase or lease real or personal property for a period not to exceed 10 years. Agreements entered into by a county must be made pursuant to law and for a public purpose.

To the Board of Governors,
The City Club of Portland:

I. ASSIGNMENT

Your Committee was appointed to study and report on a proposed constitutional amendment placed on the state ballot for the general election on November 5, 1968 by House Joint Resolution No. 27 and appearing as State Ballot Measure No. 4.

II. TEXT OF AMENDMENT

(1) Section 10, Article XI of the Constitution of the State of Oregon, is amended to read:

Section 10. No county shall create any debt or liabilities which shall singly or in the aggregate, with previous debts or liabilities, exceed the sum of \$5,000; provided, however, counties may incur bonded indebtedness in excess of such \$5,000 limitation to carry out purposes authorized by statute, such bonded indebtedness not to exceed limits fixed by statute. *This section does not apply to an agreement, entered into by a county pursuant to law, to purchase or lease real or personal property for a period not exceeding 10 years for a public purpose.* (Italicized matter is the amendment.)

III. SOURCES OF INFORMATION

The following persons were interviewed by the Committee as a whole or by individual committee members:

George J. Annala, Manager, Oregon Tax Research;

Senator Ted Hallock, Oregon State Legislature;

Loren Kramer, Director, Department of Administrative Services,
Multnomah County;

Willis A. West, Chief Civil Deputy, Office of the District Attorney,
Multnomah County.

Senator Don S. Willner, Oregon State Legislature;

In addition, your Committee studied prior reports of the City Club dealing with the County debt limitation, particularly its Report of October 17, 1958, and various publications discussing the proposed amendment, including the *Oregonian*, *The Oregon Journal*, *The Salem Capitol Journal*, *Your Taxes*, *The Oregon Voter* and the *Voters' Pamphlet*.

IV. ARGUMENTS ADVANCED AGAINST THE MEASURE

1. County officials should not be allowed to incur major county debt without voter approval.
2. Piecemeal constitutional amendment should not be favored when the entire Constitution is in need of revision.
3. The existing \$5,000 debt limitation is unrealistic and should be eliminated in its entirety rather than broadened for limited purposes.
4. The amendatory language is ambiguous and will invite litigation.

V. ARGUMENTS ADVANCED IN SUPPORT OF THE MEASURE

Modern business practices and economics make it essential that counties be in a position to incur debt obligations which far exceed the existing \$5,000 debt limitation for the purpose of acquiring or leasing property.

VI. DISCUSSION

Historically, an Oregon county has never been able to incur debts which in the aggregate exceed \$5,000 unless the excess is represented by bonded debt approved by the voters. Numerous opinions of the Attorney General and decisions of the Supreme Court of Oregon have held that time-purchase contracts and leases with terms extending beyond the current fiscal year constitute debts in the aggregate amounts to be paid in succeeding years. Consequently, as a practical matter, because of the low unbonded debt limit, counties may not legally enter into time-purchase agreements or long-term leases involving real or personal property, but must acquire the property by outright purchase with funds budgeted for the current year or with funds raised by voter approved bond issues.

It is apparent that this restriction seriously handicaps county officials in the orderly management of County affairs, particularly in financing the acquisition or use of expensive modern equipment such as voting machines, automatic data processing equipment, heavy automotive vehicles and the like, its acquisition of real property for purposes of expansion and its temporary leasing of real property pending permanent expansion of facilities.

Passage of the proposed amendment would place county officials in relatively the same position as cities and school districts which are not so handicapped by constitutional debt limitations.

VII. CONCLUSIONS

Your Committee is of the opinion that local budget laws, control of county policies through the election of officials and the six percent limitation on annual tax levies are adequate to prevent abuses of the proposal.

While your Committee recognizes that over-all revision of the Constitution may be preferable to piecemeal revision, that there are some ambiguities in the language of the amendment and that the problem might preferably have been resolved by a complete elimination of the unrealistic \$5,000 debt limitation, your Committee believes the need for the amendment outweighs these considerations and that the proposal should be approved.

VIII. RECOMMENDATION

Your Committee recommends that the City Club go on record as favoring the constitutional amendment herein discussed and urges a vote of "Yes" on State Ballot Measure No. 4.

Respectfully submitted,
Richard Lee Blankenship
Neil Farnham
Lloyd W. Weisensee
William O. Wright *and*
John R. Hay, *Chairman*

Received by the Research Board and Board of Governors October 28, 1968 and ordered printed and submitted to the membership.

SALEM CITY CLUB ELECTS NEW SLATE: HOLDS ANNUAL DINNER

The Salem City Club held its first annual dinner Friday evening, October 25th, at Marion Motor Inn in Salem, and heard an address by Drew Middleton, New York Times Bureau Chief at the United Nations.

Carlisle Roberts, president during the new Club's inaugural year, presided over the meeting during which he introduced the following new officers: Wesley F. Kvarsten, President; Kathleen Beaufait, Vice President; Mrs. A. A. Schram, Secretary; Carter Harrison, Treasurer, and Victor F. Fryer and Evelyn Scott, Board members.

Middleton spoke on crisis areas of the world, covering Czechoslovakia and Central Europe; the Middle East; Vietnam and S.E. Asia, and South Africa. He felt the newest and most ominous development was that of Central Europe which shakes the Russian belief that they are an "ideologically infallible group".

Portland City Club president John P. Bledsoe and others from Portland attended Salem's anniversary event.

CITY CLUB HAS RECIPROCITY WITH CALIFORNIA CLUBS

By informal agreement, the City Club of Portland members who find themselves in San Francisco or Los Angeles on a day when similar organizations are holding meetings, are privileged to attend those events.

The Commonwealth Club of California, an organization of more than 12,000 members, holds general membership program meetings as well as special "section" meetings during each week. Their headquarters are in the St. Francis Hotel in downtown San Francisco.

In Los Angeles, the Town Hall's program meetings are open to City Club members visiting in that community, and contact may be made with Town Hall headquarters at the Biltmore Hotel.

Members of those organizations are, in turn, privileged to attend City Club events when they are in Portland.

RESEARCH SUGGESTIONS PROCESSED BY PROJECT PLANNING BOARD

Suggestions for research projects for City Club consideration are fed to a special echelon of the Club's research organization, the Project Planning Board.

Members with ideas which might be feasible for the Club's volunteer research teams, should put their proposals in writing, with whatever background information is required to establish the need for such a study in the field suggested.

Letters for the Project Planning Board's consideration should be addressed to the Club at its headquarters, 420 Park Bldg., 97205. George M. Joseph, Second Vice President of the Club, is chairman of the Project Planning Board.

Suggestions, all of which, understandably, cannot be accepted for recommendation to the Board of Governors, are received not only from members, but from other organizations, government officials, or individuals concerned about a particular issue.

Many suggested projects are not feasible for a City Club lay committee to undertake, but all submitted proposals are placed on the PPB agenda.

HOW DO YOU SPONSOR A NEW MEMBER?

Any member in good standing may submit the name of an applicant for membership, either by obtaining the printed application form from the staff and contacting his prospect personally, or by requesting the staff to send a letter of invitation to the prospective member.

All applications for membership must be accompanied by at least one-half year's dues payment before it is relayed to the Board of Governors for action.

Applicants accepted by the Board are then printed in the Bulletin to notify the membership. Objections to any applicant must be submitted in writing to the Board of Governors.

Thomas P. Deering, a Governor of the Club, is chairman of membership for 1968-69.

CLUB PROGRAMS AIRED

As a public service, KOIN Radio tapes all programs of the City Club Friday luncheon meetings for broadcast each Friday evening at 10:25 p.m.

BALLOT MEASURE RECOMMENDATIONS

Measures		Committee Vote	Club Vote
STATE MEASURES			
No. 1	Constitutional Amendment: Broadening Veterans Loan Eligibility	Yes	Yes
No. 2	Constitutional Amendment: Removal of Judges	Yes	Yes
No. 3	Constitutional Amendment: Extend Ocean Boundaries	Yes	Yes
No. 4	Constitutional Amendment: Broadening County Debt Limitation	Yes	Vote: Nov. 1
No. 5	Constitutional Amendment: Government Consolidation City-County	No	No
No. 6	Constitutional Amendment: (Initiative) Bond Issue to Acquire Ocean Beaches	Maj: Yes Min: No	Vote: Nov. 1
No. 7	Constitutional Amendment: (Initiative) Changing Property Tax Limitation	No	Vote: Nov. 1

COUNTY MEASURE

No. 8	Government Center Bond Issue	Maj: No Min: Yes	Vote: Nov. 1
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AREA EDUCATION DISTRICT MEASURE

No. 10	Tax Base Proposal for Metropolitan Area Education District	Yes	Vote: Nov. 1
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(Note: No report was done by the City Club on Issue No. 9, an initiative to repeal the Multnomah County Dog Control Measure.)

**MORSE-PACKWOOD PROGRAM
SETS CLUB CROWD RECORD**

The City Club audience at the October 25th confrontation between Senator Wayne L. Morse and his opponent, Robert W. Packwood, set an all-time high for attendance in the known history of the Club.

The catering chief, Dale Read, served 807 luncheons on the main floor. Members and guests permitted in the balcony, when seats in the Grand Ballroom were filled, were estimated at 250 additional.

The estimated 1050 total in attendance was in addition to the number of working television and radio crews in the building.

At the special press tables, news representatives assigned to cover the meeting, in addition to those from local media, were from *New York Times*, *Chicago Sun Times*, *Los Angeles Times*, *Newsweek*, *United Press International*, *Associated Press*, and others. In addition, visiting journalists were present from Thailand and four African countries, under auspices of the State Department.

**TYPO ERROR FOUND IN
REPORT ON 1½% TAX LIMIT**

On page 206 of Portland City Club Bulletin (in issue published for October 25, 1968), a figure of \$47 was printed instead of the intended \$407 amount.

The error occurs on the last line of Item 1 under "IV. Fiscal Effects if the Measure Passes" and is the rounded-off amount of the 1968-69 total of budgets for all tax levying units in Multnomah County.

The report on the initiative, State Measure No. 7, will be presented and discussed at the November 1st membership luncheon meeting.

**ADDRESS, PHONE CHANGES
REQUESTED FOR RECORDS**

Members are urged to keep the City Club staff posted on any changes in home or business phone or address, as well as occupation, so that the membership punch-card system can be as up to date as possible. Phone changes to 228-7231.